

**TITLE 14**  
**FLOOD CONTROL**

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## CHAPTER 1

### FLOOD CONTROL REGULATIONS

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14-1-1: **STATUTORY AUTHORIZATION:** The legislature of the state has, in Minnesota statutes chapters 103F and 462, delegated the responsibility to local governmental units to adopt regulations designed to minimize flood losses. Therefore, the city council does ordain the provisions of this chapter. (Ord. 107, 2-21-1995)

#### 14-1-2: **FINDINGS OF FACT:**

- A. The flood hazard areas of the city are subject to periodic inundation which results in potential loss of life, loss of property, health and safety hazards, disruption of commerce and government services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- B. This chapter is based upon a reasonable method of analyzing flood hazards that is consistent with the standards established by the Minnesota department of natural resources. (Ord. 107, 2-21-1995)

14-1-3: **PURPOSE:** It is the purpose of this chapter to promote the public health, safety, and general welfare and to minimize those losses described in Subsection 14-1-2A of this chapter by provisions contained herein. (Ord. 107, 2-21-1995)

14-1-4: **DEFINITIONS:** Unless specifically defined in this section, words or phrases used in this chapter shall be interpreted so as to give them the same meanings as they have in common usage and so as to give this chapter its most reasonable application.

**ACCESSORY USE  
OR STRUCTURE:**

A use or structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.

**BASEMENT:**

Any area of a structure, including crawlspaces, having its floor or base subgrade (below ground level) on all four (4) sides, regardless of the depth of the excavation, below ground level.

**CONDITIONAL:**

A specific type of structure or land use listed in the official control that may be allowed but only after an in depth review procedure and with appropriate conditions or restrictions as provided in the official zoning controls or building codes and upon a finding that: a) certain conditions as detailed in the zoning ordinance exist; and b) the structure and/or land use conforms to the comprehensive plan and is compatible with the existing neighborhood.

**EQUAL DEGREE OF  
ENCROACHMENT:**

A method of determining the location of floodway boundaries so that floodplain lands on both sides of a stream are capable of conveying a proportionate share of flood flows.

**FLOOD:**

A temporary increase in the flow or stage of a stream or in the stage of a lake that results in the inundation of normally dry areas.

**FLOOD FREQUENCY:**

The frequency for which it is expected that a specific flood stage or discharge may be equaled or exceeded.

**FLOOD FRINGE:**

That portion of the floodplain outside of the

floodway. "Flood fringe" is synonymous with the term "floodway fringe" used in the flood insurance study for the city of Andover.

FLOODPLAIN:	The beds proper and the areas adjoining a wetland, lake or watercourse that have been or hereafter may be covered by the regional flood.
FLOODPROOFING:	A combination of structural provisions, changes, or adjustments to properties and structures subject to flooding, primarily for the reduction or elimination of flood damages.
FLOODWAY:	The bed of a wetland or lake and the channel of the watercourse and those portions of the adjoining floodplain which are reasonably required to carry and discharge the regional flood.
OBSTRUCTION:	Any dam, wall, wharf, embankment, levee, dike, pile, abutment, projection, excavation, channel modification, culvert, building, wire, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or regulatory floodplain which may impede, retard, or change the direction of the flow of water, either in itself or by catching or collecting debris carried by such water.
PRINCIPAL USE OR STRUCTURE:	All uses or structures that are not accessory uses or structures.
REACH:	A hydraulic engineering term to describe a longitudinal segment of a stream or river influenced by a natural or manmade obstruction. In an urban area, the segment of a stream or river between two (2) consecutive bridge crossings would most typically constitute a "reach".
REGIONAL FLOOD:	A flood which is representative of large floods known to have occurred generally in Minnesota and reasonably characteristic of what can be expected to occur on an average frequency in the magnitude of the 100-year recurrence interval. "Regional flood" is synonymous with the term "base flood" used in the flood insurance study.

REGULATORY FLOOD  
PROTECTION  
ELEVATION:

An elevation no lower than one foot (1') above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

STRUCTURE:

Anything constructed or erected on the ground or attached to the ground or on site utilities, including, but not limited to, buildings, factories, sheds, detached garages, cabins, manufactured homes, travel trailers/vehicles not meeting the exemption criteria specified in Subsection 14-1-12B2 of this chapter and other similar items.

VARIANCE:

A City Council granted modification of a specific permitted development standard required in an official control, where authorized by the City Code including this chapter, to allow an alternative development standard not stated as acceptable in the official control, but only as applied to a particular property in accordance with the provisions of City Code 12-14-7 (Ord. 107, 2-21-1995; amd. 2003 Code; Amended Ord. 407, 6-21-11)

14-1-5: **GENERAL PROVISIONS:**

A. Jurisdiction: This chapter shall apply to all lands within the jurisdiction of the city shown on the official zoning map and/or the attachments thereto as being located within the boundaries of the floodway, flood fringe, or general floodplain district.

B. Official Zoning Map:

1. The official zoning map, together with all materials attached thereto, is hereby adopted by reference and declared to be a part of this chapter<sup>1</sup>. The attached materials shall include the following:

a. Flood insurance study for the city prepared by the federal insurance administration dated March 1980.

b. Flood boundary and floodway map, and flood insurance rate map dated September 30, 1980, and the amended Flood Insurance Rate Map panels (10 of 15 and 15 of 15 dated July 18, 1983) and the amended Flood Boundary and Floodway Map Panel 15 of 15,

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<sup>1</sup> See section 12-3-5 of this code.

dated July 18, 1983. (Amended 1-17-06, Ord. 319)

c. A copy of the federal emergency management agency (FEMA) approval letter dated January 17, 1995, (including appropriate attachments) referencing the amended floodway boundary revision (map panel 0015) along Coon Creek between cross sections "L" and "M" just upstream of the South Coon Creek Drive. (Ord. 107, 2-21-1995)

d. A copy of the Federal Emergency Management Agency (FEMA) Letter of Map Revision dated April 25, 2005 (including appropriate attachments) referencing the amended Flood Insurance Rate Map Panel 0010 and amended Flood Boundary and Floodway Map Panel 0010, both with an effective date of August 19, 2005. The new 100 year flood elevations and floodplain boundary revisions contained in these amended map panels are found along County Ditch No. 6 from approximately 3000 feet downstream of Tulip Street NW to just downstream of 161<sup>st</sup> Avenue NW, along County Ditch No. 71 from approximately 1200 feet upstream of the confluence with County Ditch No. 48 to just downstream of 161<sup>st</sup> Avenue NW and along unnamed County Ditch No. 71 from the confluence with County Ditch No. 71 to just upstream of Burlington Northern Santa Fe Railroad. (Amended 1-17-06, Ord. 319).

2. The official zoning map shall be on file in the office of the Zoning Administrator. (Ord. 107, 2-21-1995; amd. 2003 Code)

C. Regulatory Flood Protection Elevation: The regulatory flood protection elevation shall be an elevation no lower than one foot (1') above the elevation of the regional flood plus any increases in flood elevation caused by encroachments on the floodplain that result from designation of a floodway.

D. Interpretation:

1. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

2. The boundaries of the zoning districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed as to the exact location of the boundaries of the district as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions and there is a formal

appeal of the decision of the Zoning Administrator, the Board of Adjustment shall make the necessary interpretation. All decisions will be based on elevations on the regional (100-year) flood profile and other available technical data. Persons contesting the location of the district boundaries shall be given a reasonable opportunity to present their case to the board and to submit technical evidence.

- E. Abrogation And Greater Restrictions: No structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter.
- F. Warning And Disclaimer Of Liability: This chapter does not imply that areas outside of the floodplain districts or land uses permitted within such districts will be free from flooding or flood damages. This chapter shall not create liability on the part of the city or any officer or employee thereof for any flood damages that result from reliance on this chapter or any administrative decision lawfully made there under.
- G. Severability: If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby. (Ord. 107, 2-21-1995)

14-1-6: **ESTABLISHMENT OF ZONING DISTRICTS:**

- A. Districts Established: The floodplain areas within the jurisdiction of this chapter are hereby divided into three (3) districts: floodway district (FW), flood fringe district (FF), and general floodplain district (GFP).
  - 1. Floodway District: The floodway district shall include those areas designated as floodway on the floodway boundary and floodway map adopted in Subsection 14-1-5B of this chapter.
  - 2. Flood Fringe District: The flood fringe district shall include those areas designated as floodway fringe on the flood boundary and floodway map adopted in Subsection 14-1-5B of this chapter.
  - 3. General Floodplain District: The general floodplain district shall include those areas designated as Zone A or numbered A zones without a floodway on the flood insurance rate map adopted in Subsection 14-1-5B of this chapter. (Amended 1-17-06, Ord. 319)
- B. Mapping Of District Boundaries: The boundaries of these districts shall be shown as an attachment to the official zoning map.

- C. General Requirements: No new structure or land shall hereafter be used and no structure shall be located, extended, converted, or structurally altered without full compliance with the terms of this chapter and other applicable regulations which apply to uses within the jurisdiction of this chapter. Within the floodway, flood fringe and general floodplain districts, all uses not listed as permitted uses or conditional uses in Sections 14-1-7, 14-1-8 and 14-1-9 of this chapter, respectively, shall be prohibited. In addition, a caution is provided here that:

1. New manufactured homes, replacement manufactured homes and certain travel trailers and travel vehicles are subject to the general provisions of this chapter and specifically Section 14-1-12 of this chapter;

2. Modifications, additions, structural alterations or repair after damage to existing nonconforming structures and nonconforming uses of structures or land are regulated by the general provisions of this chapter and specifically section 14-1-15; and

3. As built elevations for elevated or flood-proofed structures must be certified by ground surveys, and flood-proofing techniques must be designed and certified by a registered professional engineer or architect as stated in Section 14-1-14 of this chapter. (Ord. 107, 2-21-1995)

**14-1-7: FLOODWAY DISTRICT (FW):**

- A. Permitted Uses:

1. Uses Enumerated:

General farming, pasture, grazing, outdoor plant nurseries, horticulture, truck farming, forestry, sod farming, and wild crop harvesting.

Industrial-commercial loading areas, parking areas, and airport landing strips.

Private and public golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, and single or multiple purpose recreational trails.

Residential lawns, gardens, parking areas, and play areas.

2. Standards:



- a. The use shall have a low flood damage potential.
- b. The use shall be permissible in the underlying zoning district.
- c. The use shall not obstruct flood flows or increase flood elevations and shall not involve structures, fill, obstructions, excavations or storage of materials or equipment.

B. Conditional Uses:

1. Uses Enumerated:

Structures accessory to the uses listed in subsection A of this section and the uses listed below.

Extraction and storage of sand, gravel, and other materials.

Marinas, boat rentals, docks, piers, wharves, and water control structures. Placement of fill.

Railroads, streets, bridges, utility transmission lines, and pipelines.

Storage yards for equipment, machinery, or materials.

Structural works for flood control such as levees, dikes and floodwalls constructed to any height where the intent is to protect individual structures and levees or dikes where the intent is to protect agricultural crops for a frequency flood event equal to or less than the 10-year frequency flood event.

Travel trailers and travel vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Subsection 14-1-12B of this chapter.

2. Standards:

- a. Increase In Flood Stage Prohibited: No structure (temporary or permanent), fill (including fill for roads and levees), deposit, obstruction, storage of materials, or equipment, or other uses may be allowed as a conditional use that will cause any increase in the stage of the 100-year or regional flood or cause an increase in flood damages in the reaches affected.

b. Procedures And Standards: All floodway conditional uses shall be subject to the procedures and standards contained in Subsection 14-1-14C of this chapter.

c. Permitted In Underlying Zoning District: The conditional use shall be permissible in the underlying zoning district.

d. Fill:

(1) Fill, dredge spoil and all similar materials deposited or stored in the floodplain shall be protected from erosion by vegetative cover, mulching, riprap or other acceptable method.

(2) Dredge spoil sites and sand and gravel operations shall not be allowed in the floodway unless a long term site development plan is submitted which includes an erosion/sedimentation prevention element to the plan.

(3) As an alternative, and consistent with Subsection B2d(2) of this section, dredge spoil disposal and sand and gravel operations may allow temporary, on site storage of fill or other materials which would have caused an increase to the stage of the 100year or regional flood but only after the governing body has received an appropriate plan which assures the removal of the materials from the floodway based upon the flood warning time available. The Conditional Use Permit must be title registered with the property in the office of the County Recorder.

e. Accessory Structures:

(1) Accessory structures shall not be designed for human habitation.

(2) Accessory structures, if permitted, shall be constructed and placed on the building site so as to offer the minimum obstruction to the flow of floodwaters.

(A) Whenever possible, structures shall be constructed with the longitudinal axis parallel to the direction of flood flow; and

(B) So far as practicable, structures shall be placed approximately on the same flood flow lines as those of adjoining structures.

(3) Accessory structures shall be elevated on fill or structurally dry flood-proofed in accordance with FP-1 or FP-2 flood-proofing classifications in the state building code. As an alternative, an accessory structure may be flood-proofed to the FP-3 or FP-4 flood-proofing classification in the State Building Code, provided the accessory structure constitutes a minimal investment, does not exceed five hundred (500) square feet in size, and for a detached garage, the detached garage must be used solely for parking of vehicles and limited storage. All flood-proofed accessory structures must meet the following additional standards, as appropriate:

(A) The structure must be adequately anchored to prevent flotation, collapse or lateral movement of the structure and shall be designed to equalize hydrostatic flood forces on exterior walls; and

(B) Any mechanical and utility equipment in a structure must be elevated to or above the regulatory flood protection elevation or properly flood-proofed.

f. Storage Of Materials And Equipment:

(1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the governing body.

g. Changes In Waterways: Structural works for flood control that will change the course, current, or cross section of protected wetlands or public waters shall be subject to the provisions of Minnesota Statutes Chapter 103G. Communitywide structural works for flood control intended to remove areas from the regulatory floodplain shall not be allowed in the floodway.

h. Levees, Dikes And Floodwalls: A levee, dike or floodwall constructed in the floodway shall not cause an increase to the 100-year or regional flood, and the technical analysis must assume equal conveyance or storage loss on both sides of a stream. (Ord.

**14-1-8: FLOOD FRINGE DISTRICT (FF):**

**A. Permitted Uses:**

1. Uses Enumerated: Permitted uses shall be those uses of land or structures listed as permitted uses in the underlying zoning use district(s). All permitted uses shall comply with the standards for flood fringe permitted uses listed in Subsection A2 of this section and the standards for all flood fringe uses listed in Subsection C of this section.

**2. Standards:**

- a. All structures, including accessory structures, must be elevated on fill so that the lowest floor, including basement floor, is at or above the regulatory flood protection elevation. The finished fill elevation for structures shall be no lower than one foot (1') below the regulatory flood protection elevation, and the fill shall extend at such elevation at least fifteen feet (15') beyond the limits of any structure erected thereon.
- b. As an alternative to elevation on fill, accessory structures that constitute a minimal investment and that do not exceed five hundred (500) square feet for the outside dimension at ground level may be internally flood-proofed in accordance with Subsection 14-1-7B2e(3) of this chapter.
- c. The cumulative placement of fill where at any one time in excess of one thousand (1,000) cubic yards of fill is located on the parcel shall be allowable only as a conditional use, unless said fill is specifically intended to elevate a structure in accordance with Subsection A2a of this section.
- d. The storage of any materials or equipment shall be elevated on fill to the regulatory flood protection elevation.
- e. The provisions of Subsection C of this section shall apply.

**B. Conditional Uses:**

1. Uses Enumerated: Any structure that is not elevated on fill or flood-proofed in accordance with Subsections A2a and A2b of this section or any use of land that does not comply with the standards in Subsections A2c and A2d of this section shall only be allowable as a conditional use. An application for a conditional use shall be subject to the standards,

criteria and evaluation procedures specified in Subsections B2 and C of this section and Subsection 14-1-14C of this chapter.

## 2. Standards:

### a. Alternative Elevation Methods:

(1) Alternative elevation methods other than the use of fill may be utilized to elevate a structure's lowest floor above the regulatory flood protection elevation. These alternative methods may include the use of stilts, pilings, parallel walls, etc., or above grade, enclosed areas such as crawlspaces or tuck-under garages. The base or floor of an enclosed area shall be considered above grade and not a structure's basement or lowest floor, if: a) the enclosed area is above grade on at least one side of the structure; b) it is designed to internally flood and is constructed with flood resistant materials; c) it is used solely for the parking of vehicles, building access or storage.

(2) The above noted alternative elevation methods are subject to the following additional standards:

(A) Design And Certification: The structure's design and as built condition must be certified by a registered professional engineer or architect as being in compliance with the general design standards of the state building code and, specifically, that all electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities must be at or above the regulatory flood protection elevation or designed to prevent floodwater from entering or accumulating within these components during times of flooding.

(B) Specific Standards For Above grade, Enclosed Areas: Above grade, fully enclosed areas such as crawlspaces or tuck under garages must be designed to internally flood, and the design plans must stipulate:

i. The minimum area of openings in the walls where internal flooding is to be used as a flood-proofing technique. When openings are placed in a structure's walls to provide for entry of floodwaters to equalize pressures, the bottom of all openings shall be no

higher than one foot (1') above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

ii. That the enclosed area will be designed of flood resistant materials in accordance with the FP-3 or FP-4 classifications in the State Building Code and shall be used solely for building access, parking of vehicles or storage.

b. Basements: "Basements", as defined by Section 14-1-4 of this chapter, shall be subject to the following:

(1) Residential basement construction shall not be allowed below the regulatory flood protection elevation.

(2) Nonresidential basements may be allowed below the regulatory flood protection elevation, provided the basement is structurally dry flood-proofed in accordance with Subsection B2c of this section.

c. Nonresidential Structures: All areas of nonresidential structures, including basements, to be placed below the regulatory flood protection elevation shall be flood-proofed in accordance with the structurally dry flood-proofing classifications in the state building code. Structurally dry flood-proofing must meet the FP-1 or FP-2 flood-proofing classification in the State Building Code, and this shall require making the structure watertight with the walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrodynamic loads and the effects of buoyancy. Structures flood-proofed to the FP-3 or FP-4 classification shall not be permitted.

d. Fill; Erosion/Sedimentation Control Plan: When, at any one time, more than one thousand (1,000) cubic yards of fill or other similar material is located on a parcel for such activities as on site storage, landscaping, sand and gravel operations, roads, dredge spoil disposal or construction of flood control works, an erosion/sedimentation control plan must be submitted unless the city is enforcing a state approved shoreland management ordinance<sup>1</sup>. In the absence of a state approved shoreland ordinance, the plan must clearly specify methods to be used to stabilize the fill on site for a flood event at a minimum of the 100-year regional flood event. The plan must be prepared and certified

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<sup>1</sup> See title 13, chapter 4 of this code.

by a registered professional engineer or other qualified individual acceptable to the city. The plan may incorporate alternative procedures for removal of the material from the floodplain if adequate flood warning time exists.

e. Storage Of Materials And Equipment:

(1) The storage or processing of materials that are, in time of flooding, flammable, explosive, or potentially injurious to human, animal, or plant life is prohibited.

(2) Storage of other materials or equipment may be allowed if readily removable from the area within the time available after a flood warning and in accordance with a plan approved by the city.

f. Other Standards: The provisions of Subsection C of this section shall also apply.

C. Standards For All Flood Fringe Uses:

1. Access: All new principal structures must have vehicular access at or above an elevation not more than two feet (2') below the regulatory flood protection elevation. If a variance to this requirement is granted, the board of adjustment must specify limitations on the period of use or occupancy of the structure for the times of flooding and only after determining that adequate flood warning time and local flood emergency response procedures exist.

2. Commercial Uses: Accessory land uses, such as yards, railroad tracks, and parking lots, may be at elevations lower than the regulatory protection elevation. However, a permit for such facilities to be used by the employees or the general public shall not be granted in the absence of a flood warning system that provides adequate time for evacuation if the area would inundate to a depth greater than two feet (2') or be subject to flood velocities greater than four feet (4') per second upon occurrence of the regional flood.

3. Manufacturing And Industrial Uses: Measures shall be taken to minimize interference with normal plant operations especially along streams having protracted flood durations. Certain accessory land uses such as yards and parking lots may be at lower elevations subject to requirements set out in Subsection C2 of this section. In considering permit applications, due consideration shall be given to needs of an industry whose business requires that it be located in floodplain areas.

4. Fill: Fill shall be properly compacted and the slopes shall be properly protected by the use of riprap, vegetative cover or other acceptable method. The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested.

5. Encroachment Limit: Floodplain developments shall not adversely affect the hydraulic capacity of the channel and adjoining floodplain of any tributary watercourse or drainage system where a floodway or other encroachment limit has not been specified on the official zoning map.

6. Travel Trailers And Travel Vehicles: Standards for travel trailers and travel vehicles are contained in Subsection 14-1-12B of this chapter.

7. Manufactured Homes: All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces. (Ord. 107, 2-21-1995)

14-1-9: **GENERAL FLOODPLAIN DISTRICT:**

A. Permitted Uses:

1. Permitted uses shall include those uses permitted by Subsection 14-1-7A1 of this chapter.

2. All other uses shall be subject to the floodway/flood fringe evaluation criteria pursuant to Section B of this section. Section 14-1-7 of this chapter shall apply if the proposed use is in the floodway district, and Section 14-1-8 of this chapter shall apply if the proposed use is in the flood fringe district.

B. Procedures For Floodway And Flood Fringe Determinations Within General Floodplain District:

1. Upon receipt of an application for a Conditional Use Permit for a use within the general floodplain district, the applicant shall be required to furnish such of the following information as is deemed necessary by the zoning administrator for the determination of the regulatory flood



protection elevation and whether the proposed use is within the floodway or flood fringe district:

- a. A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
  - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
  - c. Profile showing the slope of the bottom of the channel or flow line of the stream for at least five hundred feet (500') in either direction from the proposed development.
2. The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the floodway or flood fringe and to determine the regulatory flood protection elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 - 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' area hydrologist prior to commencing the analysis. The designated engineer or expert shall:
  - a. Estimate the peak discharge of the regional flood.
  - b. Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - c. Compute the floodway necessary to convey the regional flood without increasing flood stages more than five-tenths foot (0.5'). A lesser stage increase than five-tenths foot (0.5') shall be required if, as a result of the additional stage increase, increased flood damage would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.
3. The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the planning and zoning

commission. The Planning and Zoning Commission must formally accept the technical evaluation and the recommended floodway and/or flood fringe district boundary or deny the permit application. The City Council, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency, the Department of Natural Resources or the Planning and Zoning Commission for review or comment. Once the floodway and flood fringe boundaries have been determined, the governing body shall refer the matter back to the zoning administrator who shall process the permit application consistent with the applicable provisions of Sections 14-1-7 and 14-1-8 of this chapter. (Ord. 107, 2-21-1995)

**14-1-10: SUBDIVISIONS:**

- A. Review Criteria: No land shall be subdivided which is held unsuitable by the city council for reason of flooding, inadequate drainage, water supply or sewage treatment facilities. All lots within the floodplain districts shall contain a building site at or above the regulatory flood protection elevation. All subdivisions shall have water and sewage disposal facilities that comply with the provisions of any city ordinance and have road access both to the subdivision and to the individual building sites no lower than two feet (2') below the regulatory flood protection elevation. For all subdivisions in the floodplain, the floodway and flood fringe boundaries, the regulatory flood protection elevation and the required elevation of all access roads shall be clearly labeled on all required subdivision and platting drawing documents.
- B. Floodway/Fringe Determinations In General Floodplain District: In the general floodplain district, applicants shall provide the information required in Subsection 14-1-9B of this section to determine the 100-year flood elevation, the floodway and flood fringe district boundaries and the regulatory flood protection elevation for the subdivision site.
- C. Removal Of Special Flood Hazard Area Designation: The Federal Emergency Management Agency (FEMA) has established criteria for removing the special flood hazard area designation for certain structures properly elevated on fill above the 100-year flood elevation. FEMA's requirements incorporate specific fill compaction and side slope protection standards for multi-structure or multi-lot developments. These standards should be investigated prior to the initiation of site preparation if a change of special flood hazard area designation will be requested. (Ord. 107, 2-21-1995)

**14-1-11: UTILITIES AND PUBLIC TRANSPORTATION FACILITIES:**

- A. Public Utilities: All public utilities and facilities such as gas, electrical,

sewer, and water supply systems to be located in the floodplain shall be flood-proofed in accordance with the State Building Code or elevated to above the regulatory flood protection elevation.

- B. Public Transportation Facilities: Railroad tracks, roads, and bridges to be located within the floodway district shall comply with Subsection 14-1-7B of this chapter. Elevation to the regulatory flood protection elevation shall be provided where failure or interruption of these transportation facilities would result in danger to the public health or safety or where such facilities are essential to the orderly functioning of the area. Minor or auxiliary roads or railroads may be constructed at a lower elevation where failure or interruption of transportation services would not endanger the public health or safety.
- C. On Site Sewage Treatment And Water Supply Systems<sup>1</sup>:
  - 1. Where public utilities are not provided:
    - a. On site water supply systems must be designed to minimize or eliminate infiltration of floodwaters into the systems; and
    - b. New or replacement on site sewage treatment systems must be designed to minimize or eliminate infiltration of floodwaters into the systems and discharge from the systems into floodwaters, and they shall not be subject to impairment or contamination during times of flooding.
  - 2. Any sewage treatment system designed in accordance with the current statewide standards for on site sewage treatment systems shall be determined to be in compliance with this section. (Ord. 107, 2-21-1995)

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<sup>1</sup> See title 10, chapter 4 of this code.

**14-1-12: MANUFACTURED HOMES AND PARKS; TRAVEL TRAILERS  
AND TRAVEL VEHICLES:**

**A. Manufactured Homes And Manufactured Home Parks:**

1. Manufactured Home Parks: New manufactured home parks and expansions to existing manufactured home parks shall be subject to the provisions placed on subdivisions by Section 14-1-10 of this chapter. (Ord. 107, 2-21-1995)

2. Manufactured Homes:

a. The placement of new or replacement of manufactured homes in existing manufactured home parks that are located in floodplain districts will be treated as new structures and may be placed only if elevated in compliance with Section 14-1-8 of this chapter. If vehicular road access for preexisting manufactured home parks is not provided in accordance with Subsection 14-1-8C1 of this chapter, then replacement manufactured homes will not be allowed until the property owner develops a flood warning emergency plan acceptable to the city. (Ord. 107, 2-21-1995; amd. 2003 Code)

b. All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse and lateral movement. Methods of anchoring may include, but are not limited to, use of over the top or frame ties to ground anchors. This requirement is in addition to applicable state or local anchoring requirements for resisting wind forces.

**B. Travel Trailers And Travel Vehicles:**

1. Application Of Provisions: Travel trailers and travel vehicles that do not meet the exemption criteria in Subsection B2a of this section, shall be subject to the provisions of this chapter and as specifically spelled out in Subsections B2c and B2d of this section.

2. Exemptions:

a. Travel trailers and travel vehicles are exempt from the provisions of this chapter if they are placed in any area listed in Subsection B2b of this section, and further, if they meet the following criteria:

(1) Have current licenses required for highway use. (Ord. 107, 2-21-1995)

(2) Are highway ready, meaning on wheels. They are attached to the site only by quick disconnect type utilities commonly used in campgrounds and trailer parks, and the travel trailer or travel vehicle has no permanent structural type additions attached to it. (Ord. 107, 2-21-1995; amd. 2003 Code)

(3) The travel trailer or travel vehicle and associated use must be permissible in any preexisting, underlying zoning use district.

b. Areas exempted for placement of travel/recreational vehicles:

(1) Individual lots or parcels of record.

(2) Existing commercial recreational vehicle parks or campgrounds.

(3) Existing condominium type associations.

c. Travel trailers and travel vehicles exempted in Subsection B2a of this section lose this exemption when development occurs on the parcel exceeding five hundred dollars (\$500.00) for a structural addition to the travel trailer/travel vehicle or an accessory structure such as a garage or storage building. The travel trailer/travel vehicle and all additions and accessory structures will then be treated as a new structure and shall be subject to the elevation/flood-proofing requirements and the use of land restrictions specified in Sections 14-1-7 and 14-1-8 of this chapter.

d. New commercial travel trailer or travel vehicle parks or campgrounds and new residential type subdivisions and condominium associations and the expansion of any existing similar use exceeding five (5) units or dwelling sites shall be subject to the following:

(1) Any new or replacement travel trailer or travel vehicle will be allowed in the floodway or flood fringe districts, provided said trailer or vehicle and its contents are placed on fill above the regulatory flood protection elevation and properly elevated road access to the site exists in accordance with Subsection 14-1-8C1 of this chapter. No fill placed in the floodway to meet the requirements of this subsection shall increase flood stages of the 100-year or regional flood.

(2) All new or replacement travel trailers or travel vehicles

not meeting the criteria of Subsection B2d(1) of this section may, as an alternative, be allowed as a conditional use if in accordance with the following provisions and the provisions of Subsection 14-1-14C of this chapter. The applicant must submit an emergency plan for the safe evacuation of all vehicles and people during the 100-year flood. Said plan shall be prepared by a registered engineer or other qualified individual and shall demonstrate that adequate time and personnel exist to carry out the evacuation. All attendant sewage and water facilities for new or replacement travel trailers or other recreational vehicles must be protected or constructed so as not to be impaired or contaminated during times of flooding in accordance with Subsection 14-1-11C of this chapter. (Ord. 107, 2-21-1995)

**14-1-13: ADMINISTRATION AND ENFORCEMENT OFFICIALS:**

- A. Zoning Administrator: A Zoning Administrator designated by the City Council shall administer and enforce this chapter. If he/she finds a violation of the provisions of this chapter, he/she shall notify the person responsible for such violation in accordance with the procedures stated in Section 14-1-17 of this chapter.
- B. Board Of Adjustment and Appeals (Amended Ord. 407; 6-21-11):
  - 1. Board Established: The City Council shall be the Board of Adjustment and Appeals as provided by Minn. Stat. 462.354, subdivision 2, and shall have the powers granted under Minn. Stat. Sections 462.357, subdivision 6, and 462.359 subdivision 4, as they may be amended from time to time. (Amended Ord. 407, 6-21-11)
  - 2. Rules: The Board of Adjustment shall adopt rules for the conduct of business and may exercise all of the powers conferred on such boards by state law.
  - 3. Appeals: The Board shall hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement or administration of this chapter.
  - 4. Variances:
    - a. The Board may authorize, upon appeal in specific cases, such variance from the terms of this chapter, as provided for in the respective enabling legislation for planning and zoning for cities or counties as appropriate. In the granting of such variance, the Board

of Adjustment shall clearly identify in writing the specific conditions that existed consistent with the criteria specified in the respective enabling legislation that justified the granting of the variance. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the regulatory flood protection elevation for the particular area, or permit standards lower than those required by state law. (Amended Ord. 407, 6-21-11)

b. The Zoning Administrator shall notify the applicant for a variance that: 1) The issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as twenty five dollars (\$25.00) for one hundred dollars (\$100.00) of insurance coverage; and 2) such construction below the 100-year or regional flood level increases risks to life and property. Such notification shall be maintained with a record of all variances actions. The city shall maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its annual or biennial report submitted to the Administrator of the National Flood Insurance Program. (Ord. 107, 2-21-1995)

5. Hearings: Upon filing with the Board of Adjustment of an appeal from a decision of the Zoning Administrator, or an application for a variance, the Board shall fix a reasonable time for a hearing and give due notice to the parties in interest. The Board shall submit by mail to the Commissioner of Natural Resources of the state a copy of the application for proposed variances sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the hearing.

6. Decisions: The Board shall arrive at a decision on such appeal or variance within sixty (60) days. In passing upon an appeal, the Board may, so long as such action is in conformity with the provisions of this chapter, reverse or affirm, wholly or in part, or modify the order, requirement, decision or determination of the Zoning Administrator or other public official. It shall make its decision in writing setting forth the findings of fact and the reasons for its decisions. In granting a variance, the board may prescribe appropriate conditions and safeguards such as those specified in Subsection 14-1-14C5 of this chapter, which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter punishable under Section 14-1-17. A copy of all decisions granting variances shall be forwarded by mail to the Commissioner of Natural Resources of the state within ten (10) days of such action.

7. Appeals From Decisions: Appeals from any decision of the Board may be made and as specified in the city's official controls<sup>1</sup> and Minnesota statutes. (Ord. 107, 2-21-1995; amd. 2003 Code)

**14-1-14: PERMITS AND CERTIFICATES<sup>2</sup>:**

**A. Use Permit:**

1. Permit Required: A use permit issued by the Zoning Administrator in conformity with the provisions of this chapter shall be secured: prior to the erection, addition, or alteration of any building, structure, or portion thereof; prior to the use or change of use of a building, structure, or land; prior to the change or extension of a nonconforming use; and prior to the placement of fill, excavation of materials, or the storage of materials or equipment within the floodplain.

2. Application For Permit: Application for a use permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable: plans in duplicate drawn to scale, showing the nature, location, dimensions, and elevations of the lot; existing or proposed structures, fill, or storage of materials; and the location of the foregoing in relation to the stream channel.

3. State And Federal Permits: Prior to granting a use permit or processing an application for a Conditional Use Permit or variance, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits.

4. Other Certificates: The applicant shall be required to submit certification by a registered professional engineer, registered architect, or registered land surveyor that the finished fill and building elevations were accomplished in compliance with the provisions of this chapter. Flood-proofing measures shall be certified by a registered professional engineer or registered architect.

**B. Certificate Of Zoning Compliance:** It shall be unlawful to use, occupy, or permit the use or occupancy of any building or premises or part thereof hereafter created, erected, changed, converted, altered, or enlarged in its use or structure until a certificate of zoning compliance shall have been issued by the Zoning Administrator stating that the use of the building or land conforms to the requirements of this chapter. (Ord. 107, 2-21-1995)

**C. Conditional Use Permit:**

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<sup>1</sup> See section 12-15-8 of this code.

<sup>2</sup> See also subsections 13-4-4A and B of this code.



1. General Provisions:

a. Applications shall be submitted to the Zoning Administrator who shall forward the application to the Planning and Zoning Commission for consideration. The Planning and Zoning Commission shall hear and forward recommendations regarding applications to the City Council for conditional uses permissible under this chapter. Upon filing with the Zoning Administrator an application for a Conditional Use Permit, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources of the state a copy of the application for proposed Conditional Use sufficiently in advance so that the Commissioner will receive at least ten (10) days' notice of the hearing.

b. The City Council shall arrive at a decision on a conditional use within sixty (60) days. In granting a Conditional Use Permit, the City Council shall prescribe appropriate conditions and safeguards, in addition to those specified in Subsection C5 of this section, which are in conformity with the purposes of this chapter. Violations of such conditions and safeguards, when made a part of the terms under which the conditional use permit is granted, shall be deemed a violation of this chapter punishable under Section 14-1-17. A copy of all decisions granting Conditional Use Permits shall be forwarded by mail to the Commissioner of Natural Resources of the state within ten (10) days of such action. (Ord. 107, 2-21-1995; amd. 2003 Code)

2. Procedures: Procedures to be followed by the City Council in passing on Conditional Use Permit applications within all floodplain districts shall be as follows:

a. Require the applicant to furnish such of the following information and additional information as deemed necessary by the Planning and Zoning Commission for determining the suitability of the particular site for the proposed use:

(1) Plans in triplicate drawn to scale showing the nature, location, dimensions, and elevations of the lot, existing or proposed structures, fill, storage of materials, flood-proofing measures, and the relationship of the above to the location of the stream channel.

(2) Specifications for building construction and materials, flood-proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and

sanitary facilities.

b. Transmit one copy of the information described in Subsection C2a(1) of this section to a designated engineer or other expert person or agency for technical assistance, where necessary, in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protection, and other technical matters.

c. Based upon the technical evaluation of the designated engineer or expert, the planning and zoning commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

3. Factors Considered For Approval: In passing upon conditional use applications, the City Council shall consider all relevant factors specified in other sections of this chapter, and:

a. The danger of life and property due to increased flood heights or velocities caused by encroachments.

b. The danger that materials may be swept onto other lands or downstream to the injury of others.

c. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.

d. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.

e. The importance of the services provided by the proposed facility to the community.

f. The requirements of the facility for a waterfront location.

g. The availability of alternative locations not subject to flooding for the proposed use.

h. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.

i. The relationship of the proposed use to the comprehensive plan and floodplain management program for the area.

j. The safety of access to the property in times of flood for ordinary

and emergency vehicles.

k. The expected heights, velocity, duration, rate of rise, and sediment transport of the floodwaters expected at the site.

l. Such other factors which are relevant to the purposes of this chapter.

4. Time For Acting On Application: The City Council shall act on an application in the manner described above within sixty (60) days from receiving the application; except, that where additional information is required pursuant to Subsections C2 and C3 of this section, the City Council shall render a written decision within sixty (60) days from the receipt of such additional information.

5. Conditions Attached To Conditional Use Permits: Upon consideration of the factors listed above and the purposes of this chapter, the City Council shall attach such conditions to the granting of Conditional Use Permits as it deems necessary to fulfill the purposes of this chapter. Such conditions may include, but are not limited to, the following:

- a. Modification of waste disposal and water supply facilities.
- b. Limitations on period of use, occupancy, and operation.
- c. Imposition of operational controls, sureties, and deed restrictions.
- d. Requirements for construction of channel modifications, dikes, levees, and other protective measures.
- e. Flood-proofing measures, in accordance with the State Building Code and this chapter. The applicant shall submit a plan or document certified by a registered professional engineer or architect that the flood-proofing measures are consistent with the regulatory flood protection elevation and associated flood factors for the particular area.

D. Construction And Use To Comply: Use permits, conditional use permits, or certificates of zoning compliance issued on the basis of approved plans and applications authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Any use, arrangement, or construction at variance with that authorized shall be deemed a violation of this chapter and punishable as provided by Section 14-1-17 of this chapter. (Ord. 107, 2-21-1995)

- E. Record Of First Floor Elevation: The Building Official shall maintain a record of the elevation of the first floor (including basement) of all new structures or additions to existing structures in the floodplain districts. He/she shall also maintain a record of the elevations to which structures or additions to structures are flood-proofed. (Ord. 107, 2-21-1995; amd. 2003 Code)

14-1-15: **NONCONFORMING USES:** A structure or the use of a structure or premises which was lawful before the passage or amendment of this chapter but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:

A. Expansions And Alterations:

1. No such use shall be expanded, changed, enlarged, or altered in a way that increases its nonconformity.
2. Any alteration or addition to any nonconforming structure or nonconforming use which would result in increasing the flood damage potential of that structure or use shall be protected to the regulatory flood protection elevation in accordance with any of the elevation on fill or flood-proofing techniques (i.e., FP-1 through FP-4 flood-proofing classifications) allowable in the State Building Code, except as further restricted in Subsection A3 of this section.
3. The cost of any structural alterations or additions to any nonconforming structure over the life of the structure shall not exceed fifty percent (50%) of the market value of the structure unless the conditions of this section are satisfied. The cost of all structural alterations and additions constructed since the adoption of the city's initial floodplain controls must be calculated into today's current cost which would include all costs such as construction materials and a reasonable cost placed on all manpower and labor. If the current cost of all previous and proposed alterations and additions exceeds fifty percent (50%) of the current market value of the structure, then the structure must meet the standards of Section 14-1-7 or 14-1-8 of this chapter for new structures depending upon whether the structure is in the floodway or flood fringe, respectively.

- B. Discontinuance Of Use: If any nonconforming use is discontinued for twelve (12) consecutive months, any future use of the building or premises shall conform to this chapter. The assessor shall notify the zoning administrator in writing of instances of nonconforming uses that have been discontinued for a period of twelve (12) months.

- C. Damages: If any nonconforming use is destroyed by any means, including floods, to an extent of fifty percent (50%) or more of its market value at the

time of destruction, it shall not be reconstructed except in conformity with the provisions of this chapter. The applicable provisions for establishing new uses or new structures in Section 14-1-7, 14-1-8 or 14-1-9 of this chapter will apply depending upon whether the use or structure is in the floodway, flood fringe or general floodplain district, respectively. (Ord. 107, 2-21-1995)

14-1-16: **AMENDMENTS:**

- A. The floodplain designation on the official zoning map shall not be removed from floodplain areas unless it can be shown that the designation is in error or that the area has been filled to or above the elevation of the regional flood and is contiguous to land outside the floodplain. Special exceptions to this rule may be permitted by the Commissioner of Natural Resources of the state if he determines that, through other measures, lands are adequately protected for the intended use.
- B. All amendments to this chapter, including amendments to the official zoning map, must be submitted to and approved by the Commissioner of Natural Resources of the state prior to adoption. Changes in the official zoning map must meet the Federal Emergency Management Agency's (FEMA) technical conditions and criteria and must receive prior FEMA approval before adoption. The Commissioner of Natural Resources must be given ten (10) days' written notice of all hearings to consider an amendment to this chapter, and said notice shall include a draft of the chapter amendment or technical study under consideration. (Ord. 107, 2-21-1995; amd. 2003 Code)

14-1-17: **VIOLATION; PENALTIES:** Violation of the provisions of this chapter or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with grants of variances or conditional uses) shall constitute a misdemeanor and, upon conviction thereof, shall be punished as defined by law. Nothing herein contained shall prevent the city from taking such other lawful action as is necessary to prevent or remedy any violation. Such actions may include, but are not limited to:

- A. In responding to a suspect violation, the Zoning Administrator and the City Council may utilize the full array of enforcement actions available to it including, but not limited to, prosecution and fines, injunctions, after the fact permits, orders for corrective measures or a request to the national flood insurance program for denial of flood insurance availability to the guilty party. The city must act in good faith to enforce these official controls and to correct violations to the extent possible so as not to jeopardize its eligibility in the National Flood Insurance Program.
- B. When a violation is either discovered by or brought to the attention of the Zoning Administrator, the Zoning Administrator shall immediately investigate the situation and document the nature and extent of the violation of the official control. As soon as it is reasonably possible, this information will be submitted to the appropriate State Department of Natural Resources and Federal Emergency Management Agency regional office along with the city's plan of action to correct the violation to the degree possible.
- C. The Zoning Administrator shall notify the suspected party of the requirements of this chapter and all other official controls and the nature and extent of the suspected violation of these controls. If the structure and/or use is under construction or development, the Zoning Administrator may order the construction or development immediately halted until a proper permit or approval is granted by the city. If the construction or development is already completed, the Zoning Administrator may either:
  - 1) issue an order identifying the corrective actions that must be made within a specified time period to bring the use or structure into compliance with the official controls; or
  - 2) notify the responsible party to apply for an after the fact permit/development approval within a specified period of time not to exceed thirty (30) days. (Ord. 107, 2-21-1995; amd. 2003 Code)

